level of competition for broadband access,[32] nor did any examine the differences in availability of broadband platforms that consumers may experience across geographic and other socioeconomic factors. Instead, the economists' positions are quite generalized; they postulate a highly competitive market, and then assert that the heavy hand of regulation should have no place in such a world. The Lexecon economists, for example, state that "cable modem services, digital subscriber line (DSL), satellite, and both fixed and mobile wireless . . . can be used to provide broadband Internet access services,"[33] but they fail to present facts regarding the degree of actual competition in the market and consumer availability of those potential platforms. Examining those issues, as the Commission and the Department of Commerce have done, reveals that satellite and fixed and mobile wireless contribute very little overall broadband access today or for the foreseeable future.[34] This would lead, at best, to a cable modem and DSL services duopoly and not to vibrant competition.[35] However, 35% of Californians live in

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[32] Comments of Lexecon, Inc. (filed May 3, 2002); Statement of 43 Economists on the Proper Regulatory Treatment of Broadband Internet access services (filed May 3, 2002).

[33] Comments of Lexecon, Inc. at 3.

[34] *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans,* Third Report, CC Dkt. No. 98-146, FCC 02-33, at ¶¶ 55, 60 (rel. Feb. 6, 2002) (*"Third Report"*) (satellite technology accounts for only 150,000 lines); U.S. Department of Commerce, Economics and Statistics Administration, and National Telecommunications and Information Administration, *A Nation Online: How Americans Are Expanding Their Use of the Internet,* at 37 (February 2002), *found at,* < http://www.ntia.doc.gov/ntiahome/dn/anationonline2.doc> (*"A Nation Online"*) (Only 0.5% of American homes used technology other than dial-up modem, cable modem or DSL to access Internet).

[35] The Commission has noted, in the wireless context, that a duopoly creates market power for the duopolists, and does not constitute a competitive market. "[L]icensed cellular providers enjoyed duopoly market power, substantially free of direct competition from any other source." *In the Matter of Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for*

communities where DSL is the *only* broadband service choice, and of those Californians who live in cities that have access to either cable modem or DSL service, or both, 45% have access *only* to DSL.[36]

Similarly, the BOC economists do not adequately consider the costs with the putative benefits of removal of the current Title II and *Computer Inquiry* regulations, a core evaluation that any economist should perform under the public interest standard. While such a cost-benefit review would examine the incumbents' cost savings and benefits, it would also evaluate the costs and losses for consumers and independent ISPs if access via the telecommunications services of incumbent LECs were closed, as well as the effects of such closure on the nation's information economy.[37] Further, while these economists generally assert that imposition of Title II obligations "at the beginning of a product cycle is likely to be harmful to entrepreneurs and consumers alike," they fail to explain what new "product cycle" or "entrepreneurs" they refer to.[38] Certainly, they are not referring to DSL technology (which has been available for many years) or the DSL platform of the incumbent LECs, which has been growing rapidly under Title II and *Computer Inquiry* obligations for the past four years.

Forbearance For Broadband Personal Communications Services, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd. 16857, ¶ 21 (1998).

[36] Reply Comments of the People of the State of California and the California Public Utilities Commission, CC Docket 01-337 (April 22, 2002) at 14 and Appendix A.

[37] *A Nation OnLine*, Ch. 6 at 57 (As of September 2001, 41.7% of American workers use Internet services at work.).

[38] Comments of Lexecon, Inc. at 5.

Moreover, while the BOCs promise that deregulation will result in an "explosion of broadband access,"[39] the facts presented by the FCC and the Department of Commerce show rapid broadband deployment under the current regulatory environment, which is meeting reasonable expectations for facilities deployment.[40] Vague incumbent LEC *quid-pro-quo* promises for quicker and more thorough deployment in return for deregulation are unsupported by evidence and are no basis for administrative action.

Indeed, the Commission was wise to avoid these BOC promises in the past. In 1997, the BOCs' Section 706 Petitions alleged that significant deregulation was necessary to provide the BOCs with sufficient incentives to deploy DSL services to the American public. For example, Bell Atlantic (now Verizon) asserted that "the slow pace at which high-speed broadband services are becoming available . . . confirms that existing regulatory restrictions have slowed investment in the necessary advanced services,"[41] and SBC proclaimed that various FCC regulations "hinder the deployment of ADSL by the SBC LECs, and act to deny or slow the benefits of this new technology to consumers."[42] The Commission, of course, rejected the BOC petitions in the *Advanced Services MO&O*, and time has proven this to be the correct approach. The BOCs have rolled out their DSL networks at a rapid and accelerating rate while under Title II and *Computer*

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[39] Comments of SBC Communications Inc. at 3.

[40] *Third Report*, ¶ 89; *A Nation Online*, at 37, Fig. 4-3 ("growth in broadband compares favorably to the deployment rates of other communications technologies and services").

[41] Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advanced Services, CC Dkt. No. 98-11 at 1 (filed January 26, 1998).

[42] Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell For Relief from Regulation, CC Dkt. No. 98-91 at i (filed June 9, 1998).

Inquiry obligations.[43] As BOC DSL deployment continues into its fourth year, now is not the time for the Commission to second-guess this decision or to be lured by re-hashed BOC demands for deregulation.

Further, the facts also undermine the proposition that broadband access in rural areas can be addressed positively through BOC deregulation. First, BOCs do not serve all areas in rural America. Indeed, incumbent telephone companies serving rural areas urge the Commission not to force regulatory reclassification of DSL services and openly question whether such changes might, in fact, harm their ability to deploy broadband services.[44] Moreover, as NTIA and the U.S. Department of Agriculture have found, BOC deployment of DSL has focused on urban areas.[45] The well-known distance and economic limitations on DSL in rural areas also make it unlikely that BOC deregulation would lead to increased deployment in rural areas.[46]

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[43] *Third Report*, App. C, Tables 3 & 4 (noting significant increases in the sale of ILEC high-speed and advanced services from June 2000 to June 2001).

[44] Comments of OPASTCO AT 3-5 (urges the FCC to continue to permit rural incumbent LECs to continue with tariff-based "pooling"); Comments of Nebraska Independent Companies at 3 (notes the "negative policy implications" of reclassifying xDSL service as an information service); Comments of National Telecommunications Cooperative Ass'n at 1, 6 (rate of return incumbent LECs should be permitted to continue to tariff stand-alone broadband transport as an interstate telecommunications service, which has "helped small and rural carriers . . . provide reliable and affordable telecommunications services to rural America").

[45] NTIA and U.S. Department of Agriculture, "Advanced Telecommunications in Rural America: The Challenge of Bringing Broadband Service to All Americans," at 20 (April 2000) ("RBOC DSL deployment has primarily occurred in cities of 10,000 or more, while most localities with DSL have populations of 25,000 or higher") and at 22 ("the percentage of cities with RBOC-provided DSL service decreases rapidly with city size").

[46] *Id.*, at ii ("The primary reason for the slower development rate in rural areas is economic. For wireline construction, the cost to serve a customer increases the greater the distance among customers.").

Finally, Internet communications progress and common sense suggest that the elimination of network-opening regulations will retard competition, investment and innovation.[47] As many commenters have pointed out, incumbent LECs employed DSL technology long before offering it as an individual end-user service, and it was only with the roll-out of competitive DSL providers that incumbent LECs deployed the technology at all.[48]

II. THE BOCs' PROPOSED SWEEPING CHANGES IGNORE THE PUBLIC RELIANCE ON CURRENT REGULATION.

The number of commenters that strongly oppose the sweeping changes proposed by the incumbent LECs and tentatively adopted by the FCC in the NPRM is testament to the enormous hardship this sea-change in the regulatory landscape would impose on businesses and individuals that have long relied upon non-discriminatory access to ILEC wireline broadband services and networks. Likewise, hundreds of thousands of consumers nationwide are, like the independent ISPs to which they subscribe, dependent upon ILECs to continue to provide DSL transport at reasonable rates, terms, and conditions. In an effort to calm any FCC fears that they would change the way they treat non-affiliated ISPs, the ILECs offer generalized, unenforceable promises, upon which they expect the Commission and the public to depend in lieu of current rules. The

[47] Indeed, Internet architecture has developed on a layering model, whereby the functionality of the application and the transport layers are distinct and accessible. *See*, D. Comer, Internetworking with TCP/IP, Volume I, at § 11.4 (Functionality of the Layers) (1995). *See also,* Letter of Vint Cerf, WorldCom, to FCC Chairman Powell and Commerce Secretary Evans, CC Docket No. 02-33, et al., (May 20, 2002) ("IP protocol has allowed the creation of open, interconnected networks" which was also supported by the FCC's *Computer Inquiry* decisions.).

[48] *See, e.g.* Covad Comments at 32-37.

Commission should not be misled by the ILECs' mantra of "deregulation." The current regulatory scheme properly distinguishes between unregulated, competitive information services, including DSL-based broadband Internet access, and non-competitive and therefore regulated telecommunications transport such as DSL, which provides the basic input for that service. These rules have brought broadband this far and will carry it further if the FCC does not shake the regulatory foundations upon which ISPs have based their broadband business plans and pursuant to which hundreds of thousands of consumers across the U.S. currently receive DSL service.

A. Independent ISPs and Their Customers, As Well As Federal and State Entities, Reasonably Rely Upon Broadband Network Access.

Since *Computer III*, the framework for telecommunications access between independent ISPs and their customers has rested on the regulatory certainty of reasonable, non-discriminatory access to the incumbent LEC's services and networks, fashioning business plans upon an expectation backed by law. Broadband ISPs like EarthLink, for example, promote high-speed Internet access to consumers in many markets based on the knowledge that ILECs are required to provide the DSL transport that ISPs can use to provide high-speed Internet access service. The ISPs also relied on the network-opening and anti-discrimination provisions the FCC adopted in the *Computer Inquiries* to help ensure that ILECs were treating them as well as their own affiliated ISPs. End-users of DSL-based Internet service in turn have enjoyed access to ISPs from which they can obtain a range of services.

An FCC rule modification that would bring sweeping change to these interests would raise significant legal and policy issues.[49] Indeed, like the petitioners in *NAITP*, ISPs and their customers have "had good reason to rely on their status under the [prior] rule" because the FCC "did not merely acquiesce" in the ISPs' deployment of broadband Internet services, but, as the petitioners' in that case, the FCC here "invited and encouraged them"[50] in its decisions.[51]

Sweeping regulatory changes such as those proposed by the BOCs, and as suggested in the NPRM, would also adversely impact the crucial work of federal law enforcement, national security, and state regulatory agencies as well. The Secretary of Defense, concerned about the viability of national security and emergency preparedness communications, objects to the removal of broadband services from Title II regulation.[52] The FBI is concerned that reclassifying xDSL service as private carriage could impact CALEA coverage of "common carrier[s] for hire" and states that it would be "untenable to suggest that the same carrier would be exempt from CALEA merely because it offered

[49] *National Ass'n of Independent Television Producers and Distributors v. FCC*, 502 F.2d 249, 255 (2d Cir. 1974) (FCC rulemaking change was "unreasonable because it would cause serious economic harm" to the petitioners who had established reliance interests) ("*NAITP*").

[50] Id.

[51] *Advanced Services Second R&O*, 14 FCC Rcd. at ¶¶ 3, 18 (bulk DSL services sold to ISPs will promote deployment of advanced services by ISPs to consumers, which will advance the goals of Section 706 of the 1996 Act); *CPE/Enhanced Services Unbundling Order*, 16 FCC Rcd at ¶ 46 ("The internet service providers require ADSL service to offer competitive internet access service.").

[52] Secretary of Defense Comments at 2-3.

access to the Internet via a broadband facility/line, such as digital subscriber lines, instead of the *(sic)* dial-up connections."[53]

In the past several years, state legislatures and regulatory bodies have also significantly relied upon the FCC's existing regulations by linking their state statutes and regulations to the current federal scheme. The Texas Public Utility Commission, for example, cautions that the proposals set out in the NPRM, if implemented, would necessitate a "substantial re-write" of state law and urges the FCC to "consider the substantial evidentiary record being developed by states before making final" the tentative conclusions in the NPRM.[54] The Florida PSC, emphasizing "the impact on the marketplace that uncertainty brings to bear," requests that the FCC let the states finish the action undertaken pursuant to the existing federal regulatory scheme prior to "altering the regulatory landscape."[55]

B. The Commission Must Consider the Impact the ILECs' Proposals Would Have on the Public Interest.

Although the FCC must take the above-described reliance into account, there is no explanation in the record as to how the transition to any new regulations would proceed. What would happen to the thousands of ISP customers who currently rely on DSL service provided by ILECs? Would the ILECs continue to provide those service arrangements, and if so, for how long? How much would the price paid by independent ISPs go up? Would customers of ISPs affiliated with the ILECs receive better service or rates than customers of independent ISPs? Would ILECs be free to discontinue service

[53] Department of Justice and Federal Bureau of Investigation Comments at 9 n.9, 12.

[54] Texas Public Utility Commission Comments at 2 and 7.

[55] Florida Public Service Commission Comments at 9.

without obtaining an FCC certification under Section 214 of the Act that such discontinuance of the common carrier service would meet the "public interest"?[56]

In partial answer to these questions, the ILECs offer a "Memorandum of Understanding" between SBC and the U.S. Internet Industry Association ("USIIA") in which SBC "commits" that if the FCC deregulates the "broadband market," "commercial agreements for high-speed Internet access will be available and negotiated between SBC and ISPs."[57] Unfortunately, the USIIA is a BOC-supported organization that does not represent the interests of independent ISPs. The BOCs have in this instance thus made what amounts to an agreement with themselves. Rather than ease concern about the risks of deregulation of incumbent telecommunications networks, this commitment underscores those risks by studiously failing to address them. For example, SBC not only avoids any commitment not to discriminate in favor of its own affiliated ISPs—indeed, it likely would be poor business *not* to—but it also pointedly does not say that SBC will offer *all* ISPs such agreements or that the "negotiated" agreements will be even remotely

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[56] Section 214 of the Act recognizes the importance of protecting consumers' reliance interest, requiring carriers to obtain a prior FCC certification that discontinuation of service would not harm the public interest. 47 U.S.C. § 214(a). Reclassifying wireline broadband transmission service so that it no longer falls under Title II does violence to this principle of Section 214 and to the reliance interests it is designed to protect.

[57] USIIA and SBC Joint Submission (May 3, 2002), Attachment at 2. The description of USIIA as "a trade association representing nearly 300 diverse members of the Internet industry" should not be read to suggest that the organization represents the interests of independent ISPs in any way. The views expressed in the "Memorandum of Understanding," which are essentially those set forth in SBC's comments, are not shared by the ISPs, CLECs, state regulatory agencies, or public interest groups that filed comments in this proceeding. Moreover, USIIA has not presented the ISP position on this issue, and its membership does not represent the diverse or majority interests of ISPs today. Rather, from its public materials, USIIA appears to cater to BOC-owned ISPs. *See*, http://www.usiia.org/members/corplist.html.

palatable to the ISPs.[58] As for pricing, the document states that the terms will be "market-driven."[59] Given that the ILEC owns virtually every local loop necessary to provide DSL to ISP customers in its service area and very few ISPs have access to any cable modem service at all,[60] ISPs can have little faith that negotiating with a BOC under such circumstances would yield anything but "monopoly driven" prices, terms and conditions.

The Commission should determine that the risk of damage to competition and broadband deployment in this country, and the potential public backlash such damage may entail, is not worth the implementation of a deregulation plan that is unlikely to achieve its goal of speeding broadband deployment.[61] Broadband deployment is proceeding at an impressive pace under current regulation,[62] and competition is only beginning to take root.[63] The FCC should adopt a moderate approach and avoid significantl changes to the regulatory landscape at this time.

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[58] The promise that if the FCC declares the ILEC to be a *private* carrier, then it will behave like a *common* carrier by offering services to any and all comers must fail because, as the D.C. Circuit held in *NARUC I*, "A particular system is a common carrier by virtue of its functions, rather than because it is declared to be so." *NARUC v. FCC*, 525 F.2d 630, 644 (D.C. Cir. 1976).

[59] USIIA and SBC Joint Submission (May 3, 2002), Attachment at 1.

[60] *See, e.g.*, AT&T Comments, Declaration of Robert D. Willig, ¶¶ 24-25, 31; Reply Comments of the People of the State of California and the California Public Utilities Commission, CC Docket 01-337 (April 22, 2002) at 14 and Appendix A (45% of Californians in cities with DSL and/or cable modem access can get only DSL).

[61] *See, e.g.*, AT&T Comments, Declaration of Robert D. Willig, ¶¶ 85-98; Covad Comments at 32-36.

[62] *See* EarthLink Comments at 20-21; *see also* Remarks of FCC Chairman Michael K. Powell at the National Summit on Broadband Deployment (Oct. 25, 2001) ("[B]roadband availability is estimated to be this year almost 85%" of U.S. households).

[63] *See* EarthLink Comments at 18-19.

III. PRINCIPLED REGULATION OF THE ILECs IS NEEDED TO PRESERVE COMPETITION AND CONSUMER CHOICE IN BROADBAND SERVICES.

A. Common Carriage Demands Open ILEC Networks.

Critically, the regulatory "reform" that the BOCs advocate fails to recognize that intramodal competition is the very foundation of the 1996 Act and is a logical outgrowth of the common carrier framework, which has traditionally and properly been the relevant regulatory regime for wireline carriers. The "broadband services" at issue, such as DSL and related technologies, utilize the very infrastructure that the Supreme Court has just noted is a bottleneck (i.e., the local loop).[64] Indeed, the bedrock principle underlying common carrier precedent, the FCC's *Computer Inquiry* decisions and the 1996 Act is indiscriminate and open access to this vital wireline infrastructure, to facilitate public access and competition in telecommunications and information services. In fact, as commenting parties have emphasized, *Computer II/III* is predicated on the notion that if there is open and nondiscriminatory access to critical wireline bottleneck facilities and services, the public interest is served by allowing the BOCs to participate in markets from which they were previously barred.[65]

While some ILECs, especially the BOCs, urge that new infrastructure investment and innovation will be dampened unless the FCC reclassifies today's telecommunications services as information services, the services about which they are primarily complaining – DSL services – are provided to ISPs on the very loop facilities that give the ILECs "an

[64] *Verizon Communications Inc.*, 122 S. Ct. at 1672.

[65] *Computer III*, 104 F.C.C. at 964 (¶ 3).

almost insurmountable competitive advantage."[66] The reason for these conclusions supporting unbundling and access is clear; the ILECs still unquestionably control the local loop, and the vast majority of access lines.[67]

Nor does the conclusion change when considering new technologies and architectures that might be made available for "broadband information services" such as SBC's Broadband Passive Optical Networking ("BPON"), or a network configuration that replaces today's copper plant with fiber or other facilities. While the BOCs posit a scenario whereby they offer *only* information services, somehow declaring that they have freely decided not to offer any separate transmission component, even the statutory definition of "information service" plainly contemplates that information services are provided *via telecommunications.*[68] As such, the question for the FCC, according to *NARUC I* precedent, is whether there *should be* a legal compulsion for the ILECs to offer the telecommunications on any new network architecture on an open common carrier basis (i.e., that the transmission services are common carrier telecommunications services). As discussed above, the public interest clearly favors the continued offering of BOC telecommunications as common carriage, since the record amply demonstrates that this framework has redounded to the enormous benefit of the American public.

In this sense, while the Commission has acted on the bedrock legal tenets of common carriage in its *Computer II* unbundling decisions, such as by establishing

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[66] *Verizon Communications Inc.*, 122 S. Ct. at 1662.

[67] *See, e.g.*, AT&T Comments, Declaration of Robert D. Willig, ¶¶ 24-25, 31; "Local Telephone Competition: Status as of June 30, 2001," FCC, Industry Analysis Div., Common Carrier Bureau, at Table 1 (rel. Feb. 27, 2002) (ILECs held 91% of the end user switched access lines reported).

[68] 47 U.S.C. § 153(20).

particular requirements for tariffing, the FCC must understand that it may not simply regulate away this common carrier requirement but rather it must engage in the statutory analysis dictated by *NARUC I* and its progeny. This is precisely why the BOCs may not slap a new label on their services – whether based upon today's copper or tomorrow's fiber or other technology – and thereby escape the relevant legal inquiry into the proper regulatory treatment for these services.

B. The Premises for *Computer III* Remain Vital Today.

The FCC's *Computer III* precedent is likewise grounded in common carriage and the principle that competitors should be able to count on access to the BOCs' networks and non-discriminatory treatment vis-à-vis the BOCs' affiliates. Thus, when it permitted the BOCs to offer information services, the FCC instituted requirements to ensure that the BOCs continued to make available their services and infrastructure openly and without discrimination as they also entered into the newly emerging enhanced services market.[69] These requirements were driven by the need to resolve conflicting incentives due to BOC entry and participation in competitive enhanced services businesses.[70] Given that they were created to ensure that Title II common carriage is effective, the FCC cannot simply define away the need to impose such requirements. While the particular *Computer III* iteration is certainly within the FCC's reasonable discretion, the bedrock common carriage essence endures. As such, if there are specific provisions that are unduly

[69] *Computer III*, 104 F.C.C. 2d at 1011-1012 (¶¶ 98-99).

[70] *Id.*, at 964 (¶3) (*Computer III* safeguards designed to "limit[] the ability of . . . the BOCs to make unfair use of their regulated operations for the benefit of their unregulated, enhanced services activities."); *id.*, at 1012 (¶99) (*Computer III* allows joint marketing of basic and enhanced services by addressing anticompetitive concerns).

burdensome, the ILECs should demonstrate that and the provisions should be changed without reducing the network-opening, competition fostering effects of those decisions.

The premises underlying *Computer III* regulation of BOCs – to ensure nondiscriminatory and efficient access for all information service competitors – have not changed. BOCs continue to own and control the infrastructure used by ISPs in the "upstream" enhanced services market. Indeed, while the Commission applied *Computer III* obligations only to the BOCs and GTE due to their size and ability to practice pervasive discrimination (and not to independent incumbent LECs),[71] the BOCs have only grown bigger in the past few years through industry consolidations such as the Bell Atlantic-GTE merger and the SBC-Ameritech-Pacific Bell-SNET mergers. Moreover, the Commission recognized that the BOCs' control over essential local access facilities provided them with the ability to deny access to competitors in the enhanced services market, which remained a viable threat to the public interest in "the full benefits of competition in this area."[72]

Another underlying premise of *Computer III* – that the public network represents a unique resource to be open for all – has certainly not changed, either. Thus, as the FCC stated in *Computer III*, "[w]e have long recognized that the basic network is a unique resource, and our policies have been designed to promote nondiscriminatory utilization of that resource's capabilities."[73] Beyond nondiscrimination, "ONA should not only ensure equal treatment of ESPs: it should promote efficient use of the network, both by the

[71] *Computer III*, 104 F.C.C. 2d at 1027-1028 (¶ 132).

[72] *Computer III*, 104 F.C.C. 2d at 1026 (¶¶ 128-129).

[73] *Computer III*, 104 F.C.C. 2d at 1036 (¶ 148).

BOCs themselves and by unaffiliated ESPs. This is, of course, one of the primary goals of the Communications Act."[74] Until robust competition develops, general principles of efficient connectivity for all ISPs remain as significant statutory and regulatory goals as at the inception of *Computer III*.

The recent D.C. Circuit decision in *USTA v. FCC*[75] confirms that incumbent LECs should be regulated in a manner that responds effectively to the circumstances of their unique market power. Thus, while the court noted the importance of examining "market-specific variations" in competition,[76] the BOCs in this proceeding have failed to provide a market-specific analysis of the level of competition necessary to justify a change in *Computer III* regulation. Further, while the court cited to the FCC's *Third Report* on cable's retail lead in the high-speed Internet access market, the FCC's court briefs articulated the more salient points for purposes of this proceeding. The Commission noted, for example, that cable, wireless and satellite systems are not available alternatives to CLECs because the owners of such alternative facilities "are under no express statutory obligation to share their facilities with CLECs."[77] With regard to the state of the broadband market, the Commission noted that the market was too nascent to be deemed to have reached a competitive "end-state" and that many consumers have access to not even a single broadband facilities provider.[78] The same is true for ISP

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[74] *In the Matter of Filing and Review of Open Network Architecture Plans*, Memorandum Opinion and Order, 4 FCC Rcd. 1, 16 (1988).

[75] *USTA v. FCC*, 290 F. 3d 415 (D.C. Cir. 2002).

[76] *Id.*

[77] FCC Brief at 20, *USTA v. FCC* (filed August 1, 2001).

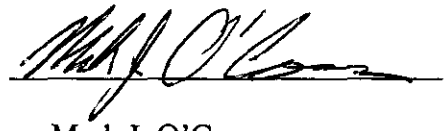
[78] *Id.* at 21.

competition: ISPs, just like CLECs, currently do not enjoy effective access to cable, wireless and satellite, and thus openness of the BOCs' networks, as spelled out by *Computer III*, is essential.

Conclusion

The Commission should maintain the common carriage elements of the incumbent LEC broadband services offerings and should retain, strengthen, and clarify its *Computer Inquiry* decisions, in order that the American public has competitive ISP services to choose from and has unfettered access to information services.

Respectfully Submitted,

By: 

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Certificate of Service

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